An Interview with Basil Fernando
on Aspects of Culture in Sri Lanka

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Basil Fernando is a lawyer and a poet.
He was born in October 1944 at Palliyawatte, a village in Hendala, Wattala, Sri Lanka.
As a young boy he attended the village primary school. He attended high school at St. Anthony’s, Wattala, and St. Benedict’s, Kotahena.
In 1972 he graduated from the Faculty of Law, the University of Ceylon, Colombo.
Until December 1981 he was a teacher of English as a second language in the Sub-Department of English at Sri Jayawardenapura University, Nugegoda.
In 1982 he began practicing as an attorney.

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ROBINSON: I’d like to ask you a question about the subject of caste that you touch upon in your poem “Remembering Mother”.
FERNANDO: Before you do that, I would prefer going back to a different topic. When I told you that the Catholic Church in Sri Lanka is corrupt, I thought I was saying something completely non-controversial. I was surprised to learn that Dr. B. E. S. J. Bastianpillai

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disagreed, saying my generalization is far too sweeping and unfair and pervaded by my sense of disappointment and disillusion. What I stated is not just a sentiment due to frustration. It is a consistent view I've held now for almost close to two decades. Even Father Balasuriya and Father Caspersz and Father Catalano whom Dr. Bas-tianpillai correctly refers to as showing sensitive concern for the deprived have written articles that support my view. And during this period much stronger condemnations of the Church in Sri Lanka have been made.

Anyway, in my case, in November 1970 I attended a meeting of Catholic Bishops of Asia held in Manilla to mark the opening of Radio Veritas, a Catholic radio station in the Philippines. That meeting was presided over by Pope Paul VI. After that meeting a resolution of which I was a signatory was distributed. This resolution was broadcast by radio reporters covering the meeting and later Reuters printed it and it was circulated all over the world. Frankly, I was responsible for the drafting of this resolution, which expressed the views endorsed by the undergraduates of my day. I had been the president of the Ceylon Catholic Students Federation, and at the Bishops' meeting I represented a group of Asian students. What I said to you about the corruption of the Catholic Church in Sri Lanka was basically what our resolution presented to Pope Paul VI and the Bishops.

ROBINSON: Do you remember the wording of that resolution?
FERNANDO: I have a copy of the resolution. It's entitled "Bishops of Asia, liberate yourselves!" We praised the Bishops for their statements about the wars, the poverty, and the sufferings of the troubled and restless peoples of Asia. But, as representatives of the Catholic students of Asia, we pointed out that we had heard the
same sentiments before. We warned the Bishops that as long as they themselves remained wealthy they would remain a part of the status quo that they themselves condemned yet, ironically, benefited from. We urged them to have the strength to accept the conditions of poverty not only in spirit but also in reality. We said that without the dispossessment of their wealth they would only lead those under their spiritual care towards disillusionment. "Liberate yourselves," we said. "Disentangle yourselves. Dispossess yourselves of your wealth and possessions. Be poor in spirit and in truth." We asked the Bishops to make their actions correspond with their words. Let me conclude with this: the entire Vatican Council II was based on the realization that the Church had deviated from the path set out by its founder and that it is entrenched in the capitalistic social system and needs to be taken out of that context. In the last three decades an enormous amount of labor has been put into this soul-searching on the part of many people in the Church. Incidentally, my first published short story, "The Conference.", published in 1971, dealt with similar ideas.

ROBINSON: Please tell the main theme of the story briefly.

FERNANDO: Simply, it's the story of a Catholic Bishop who does not dress luxuriously like a Prince of the Church.

ROBINSON: In your poem "Dotted Koha" you describe a crow as elegant, arrogant, and as beautifully attired as a Bishop.

FERNANDO: Yes. The Bishop in the story dresses simply. He does not wear a prelate's ring. He sits in an ordinary chair. He is not pompous. He is not driven around in a Mercedes Benz but in a Morris Minor. He speaks with conviction. He refers to young people as friends not children. He does not expect special arrangements to be made for him. He speaks his own thoughts. He is a man of love and
sincere concern.

ROBINSON: You mentioned before that the Christian Workers Fellowship published the Christian Worker, which you consider the most liberal journal published in Sri Lanka. You're a member of the Fellowship, aren't you?

FERNANDO: Yes, I am, and I've just written a paper entitled “Theological Implications of the Class Nature of Society in Sri Lanka” as a representative of the Christian Workers Fellowship.

ROBINSON: In general what is your paper about?

FERNANDO: It's about the relationship between theology and poverty in Sri Lanka — the encounter of the poor with the Lord. What is the problem of spirituality for the people of an under-developed country like ours?

ROBINSON: How do you define poverty in Sri Lanka?

FERNANDO: As somebody has said about poor people, they are a whole class of marginalized and exploited persons in our society. The reality of poverty in Sri Lanka manifests itself in contradictory ways. There is anguish and there is hope. The anguish is caused by impoverishment: hunger, chronic diseases, the unavailability of opportunities for medical treatment, various types of discrimination, lack of proper housing, lack of any housing at all in some cases, illiteracy, unemployment, inequality before the law and the law enforcement authorities, injustice. The hope is a response to this situation — the hope for liberation, for participation, for communion.

ROBINSON: You say the Christian or Catholic Church is not responsive to problems of poverty in Sri Lanka. What is the attitude of the Church towards critics like you?

FERNANDO: Within Christian circles generally any critique of the class nature of our society and of its relationship to Christianity is
regarded as anti—Christian activity. There is a servile attitude here that has been internalized by the subjugation of the people here for more than four centuries of colonialism. The Christian tradition in Sri Lanka has its roots in colonialism. Colonial Christianity preached salvation on the one hand and on the other hand it was the spiritual arm of colonialism. This was the worst form of exploitation. Yet some Christians here have even taken pride in this connection between Christianity and colonialism.

ROBINSON: Would you please explain this attitude of pride?

FERNANDO: It’s the persistence of a colonial mentality. An essential feature of colonial mentality and “next worldly” Christianity—that is, salvation after death, in the next world—is indifference to suffering. If he is to achieve his aims, the exploiting colonizer must be heartless. In time he instills a similar indifference in his local partners. This process reaches its height when the exploited people themselves are taught to be indifferent to their own suffering. Paulo Freire has demonstrated how people become reluctant to examine the aspects of oppression that they have deeply internalized. Long after the economic slavery of colonialism disappears the spiritual enslavement continues.

You are interested in the arts in Sri Lanka. Let me give you an example of what I mean in Church art. Take a look at the pictures and statues of Jesus Christ in our churches. The pictures of Christ in his agony found in most of our rural churches, say. No liberating grace emanates from these pictures. They manifest an attitude of resignation, of helplessness. A graceful Christ lovingly sailing over the universe offering total liberation to mankind is a theme yet to be introduced into our Christian arts here.

ROBINSON: Certain Christian publications here have taken up the
issue of poverty, though. Like Social Justice.

FERNANDO: The central concern of Father Peter Pillai, the editor of Social Justice, was to fight left-wing organizations here on the pretext that their only goal was to establish a communist state in Sri Lanka. My own research into the writings of Church people just before and after our national independence in 1948 shows their point of departure in social questions was anticommunism. The Church approach to resolving the problem of the poor was negative. In that, the thinking of the Church coincided with the thinking of the rich. Yes, there was lamenting over the condition of the poor, but Christian thinkers here did not investigate the social mechanisms that produce and maintain poverty. The key to making Christian love effective is to understand these mechanisms better and try to find avenues that can lead the victims of poverty out of it. The theology of liberation, in other words, must be socio-analytical.

ROBINSON: But local Church writings are not only anti-communist.

FERNANDO: Christian thinking even at its best here has not gone much beyond advocating welfare capitalism as against laissez faire capitalism. In doing this, it shows its failure to understand under-development. There has been endless pleading to the capitalist governments of so-called "Third World" countries for humane and rational solutions to problems. This is nothing but self-deception in the context of a historical reality that has created and maintains under-development. Poverty remains. In a many times more intensified manner. The hope that in the near future we will usher in a new era of social justice has proved to be a sadly futile dream.

ROBINSON: Wasn't Vatican Council II a stimulus to Christian social action in Sri Lanka?
FERNANDO: As I told you before, I was a participant at the Catholic Synod in Sri Lanka which was called for the purpose of implementing Vatican II here. That Synod did not go beyond formal acceptance of Vatican II, which in Sri Lanka was understood as merely calling for some liturgical changes. Vatican II did not mean the beginning of a creative period for the Church in Sri Lanka because it did not address itself to the central question.

ROBINSON: What is the central question?

FERNANDO: The central question is: How do the poor find their way to the Lord? This question was ignored, and Sri Lankan theology was deprived of a center. There were the usual calls for love and charity, but that was just sounding brass. It meant love for the better off and the rich, not love at all in the Christian sense of the word. In Sri Lanka we produced a liberal theology instead of a liberation theology. In most places here the main concern was relaxing rules for the priests and nuns. Theological thinking has remained shallow for the most part.

ROBINSON: One final question on this theme. What are you advocating in a positive way?

FERNANDO: What I'm saying is that genuine Christian thinking would view under-development as a contradiction to the plan of the Creator. This is a scandal. The collective conscience of Christians cannot reconcile itself to it. Christian love includes knowing the reality of class society and giving up naive notions of social change based on "charity" and "social service." We must consciously repudiate historical pessimism. It is a denial of Christian hope. We need to arouse the collective conscience of Christians throughout the world to condemn and eradicate under-development. We must take a clear stand with the poor. And thereby participate in the spiritual ex-
perience of the encounter of the poor with the Lord. The poor are not only the key question. The poor are also the answer. I would like to quote Henk Schram, the Dutch priest I mentioned before who served in Sri Lanka for a few years: “I am convinced that without worker power, nothing much will change in international politics and nothing will change among the poor people of the third world.” We in the Christian Workers Fellowship take it as elementary fact that we live in a class society and that only a perverted conscience could accept class society as just or normal.

ROBINSON: When we referred to your poem “Remembering Mother”, you said Sri Lankan society is still extremely caste conscious.

FERNANDO: Yes. In its origins the caste system was basically occupational as it’s described in “Mother”. Today it’s basically psychological. That’s why I emphasize the word “conscious”. The occupational basis of caste has almost disappeared in Sri Lanka; feudalism is giving way to capitalism. Of course, this transition from feudalism to capitalism is not complete in our so-called third world country, a non-developing country, if you will. In feudal society caste was very much related to land tenure. The people who owned land were considered a higher caste and people doing other occupations, services, were considered of lower castes. A person’s occupation was fixed at birth. There was hardly and possibility of a change. What is interesting about the Sri Lankan landlords as compared with landlords in India, for example, was that landlords here were rather poor themselves, economically speaking. Culturally speaking, too, we did not see highly developed cultural forms sponsored or promoted by landlords here.

ROBINSON: What are some of the Sinhala words for castes?

FERNANDO: Govigama refers to farmers. Salagama means cinnamon
peelers. *Karawa* is fisherfolk. These are some of the major castes here.

ROBINSON: Would you explain what you mean by caste being more psychological these days?

FERNANDO: Caste still plays a vital role in Sri Lankan social life and in politics. People aspiring to higher posts in political life even reconstruct their *pelapath*, their *genealogies*, to show they have links with or belong to higher castes. Very often this leads to situations that may look very comic to a person brought up in Western society. People even change their family names so as to appear to belong to an acceptable caste. A prominent historian once related a story about this. A certain man who aspired to contest a seat in our parliament came to the historian and asked him to confirm he was a descendant of Puran Appu. The historian, who knew the caste of both, told the would-be member of parliament this could have happened in only one way: some descendants of Puran Appu may have had “secret connections” with the man’s family. Even in Bar Council elections people talk about the caste backgrounds of the contestants. Caste forms an essential part of the hypocrisy of Sri Lanka’s liberal intelligentsia, too.

ROBINSON: Who was Puran Appu?

FERNANDO: He’s one of our folk heroes. He led a rebellion against the British in 1848 and was executed by them. He was a man from *pahata rata*, the low country, who had a large following in *uda rata*, the up country, which in the 19th century was the main base of opposition to British colonial rule. In this great rebellion, Puran Appu had the support of many patriotic Buddhist monks. Some of them too were summarily executed by the British. The British saved colonial rule in Ceylon only because they possessed more sophisticated
weapons. The Indian Ocean was largely controlled by the East India Company and an influx of soldiers and arms reached Ceylon. The way the British crushed this rebellion is one of the most horrible tales in the history of Sri Lanka. In fact, when the news of British atrocities was made known to the British public in England, the British withdrew the Governor of Ceylon, who had led the massacres.

ROBINSON: Do other poets here who deal with social problems in their poetry, like Parakrama Kodituwakku and Monica Ruwanpathirana, also deal with caste?

FERNANDO: There are many passing references to caste in modern Sinhala writings, but no one is specifically interested in this subject. Sometimes writers who have been victims of caste discrimination feel shy about writing about it. I may say a poem like “Remembering Mother” is rather rare in this respect.

As for Kodituwakku and Ruwanpathirana, they were very popular in the 1970s, during the time of Mrs. Bandaranaike’s coalition government. They often attempt to expose injustice. In his *Podi Malli* (Younger Brother) poems, Kodituwakku deals with inequality, unemployment, the sheer hopelessness of the poor, the utter poverty of the poorest. Ruwanpathirana deals with similar themes, though not in such depth. She places special emphasis on the effects of injustice on women. Themes such as deserted mothers, exploited women. Both of them satirize the middle class—the attitudes of this class towards the poor, their ambitions. They lack deep insight into the life of the middle class, however, in my opinion, and their criticisms remain superficial. They reflect a light-minded liberalism.

Both of these writers come from what is known as the Sinhala speaking middle class, but, as I’ve told you before, the affluent mid-
dle class in Sri Lanka is what is called the English speaking middle class. That is the class that is more “modernized” in the sense that they have been able to get the most benefit out of the present social and political system here. The Sinhala speaking middle class, though more sophisticated now than ten years ago, still lacks the experience of more complicated relations in this capitalistic society, specifically in dealing with the problems of power. It is the lack of deeper understanding of economic, political and social relationships that limits some of our writers to the level of protests only. While there are many writers in every language used in Sri Lanka who have deep roots among the working class and peasantry and other exploited and impoverished sections of society, I’m not aware of anyone who is actually a worker or peasant engaged in writing.

ROBINSON: Would you give an example of what you call lack of deep insight by Ruwanapathirana and Kodituwakku?

FERNANDO: Well, for example, in “I Will Not Come”, a poem that has been translated into English by Ranjini Obeyeskere, by the way, Kodituwakku speaks of those who leave the land for better prospects as those who should remain on the land to create “a land of the just”. Putting the dilemma that way, the poet failed to understand the enormous tensions growing in the country in the early 1970s, the enormous exodus of the poor who left the land and the betrayal of most of those who remained, who chose to compromise. In the background of the crudely unjust 1980s, with the tremendous tensions and explosions, many of the writings of the 1970s lack much significance. Sri Lanka is now a very highly complex society. The writer, the poet, has to make an effort to understand this complexity to remain relevant.

ROBINSON: Would you please explain what you call the tensions of the
1970s?

FERNANDO: The tensions of the early '70s were the result of the first generation of people becoming adults after Independence in 1948. They were uncorrupted by not living under colonial rule. They were also disillusioned by what was called independence. What that independence offered to them or to most of them was unemployment and a lifetime of poverty. Their disillusionment was aggravated when the labor parties here, namely the Lanka Sama Samaja Party and the Sri Lanka Communist Party, entered into a coalition with the Sri Lanka Freedom Party, one of the two major capitalist parties. *Apata Puthe Magak Nethe* (*Son, We Have No Way Out*), which is also the name of a drama by Henry Jayasena, became a slogan everywhere. The coalition won a massive electoral victory in 1970. The two left parties in the coalition tried to give a red coloring to the coalition, and they tried to instill in the people the idea that the ambitions of the oppressed people could be achieved through coalition politics. The work of a number of writers, including the two I just referred to, reflects this mental framework, which in essence was a hope that the coalition government would assist the people in their struggle for liberation. Later developments have proved this was a fatal mistake.

ROBINSON: Changing the subject, do you have any comments on those who are leaving the land in the sense of leaving Sri Lanka?

FERNANDO: Call it the migration urge! The urge to migrate has heightened among Sri Lankans. Almost all working age adults are looking for some opportunity abroad. This applies to those with high skills, those who are semi—skilled, and those who have no skills at all. A considerable percentage of women is looking for similar opportunities abroad, too. Almost every family here is talking about so-
Someone in the family gone or going or about to go abroad for employment. Even in the remotest village you can find at least a hundred people who have had this experience. In the towns and suburbs the number is much higher.

ROBINSON: How does this phenomenon affect Sri Lankan culture?

FERNANDO: A few decades ago only a few went abroad. Generally the purpose was for higher studies. A handful migrated for employment. Generally, professionals. All those belonged to the elite class. In turn they’ve—strengthened the elite. What we are witnessing today is a mass exodus. Even the poorest find their way to some opportunity abroad.

Now, to answer the question more directly, this phenomenon will have several effects. A considerable part of our population is having a first—hand opportunity to see enormous wealth either in Arabian oil—producing countries or in the developed countries of the West. They will develop a critical attitude toward our poverty at home. They will not accept our poverty here as inescapable, permanent, static. An enormous change in the consciousness of people is inevitable. Second, inroads will be made on the family structure in Sri Lanka. Even the poorest person who goes abroad and works as a laborer for a few years will be considered “richer” than most of the “rich” in his village when he comes back to his village. The “rich” will be forced to recognize him and even admit him into their families. This interaction will result in the transformation of social standards, social values. Another thing: this phenomenon will also add to inflation here. It will rapidly intensify social conflict. Having gotten used to being a little “richer” than before most of these people returning to their homeland will find it impossible to re—adjust to the poor salary structure in Sri Lanka.
ROBINSON: Speaking about Sri Lankan culture in general terms, is it primarily urban these days or still rural?

FERNANDO: In my view, Sri Lankan culture is not urban at all. It’s not rural, either. Could there be an urban culture without there being urban centers within the island? Which part of this country could be characterized as an urban center? In my view, none. I would say that Sri Lanka is a displaced rural society that still lives far away from the urban development known to the world today. It’s true that colonialism made Lanka a part of the large capitalist world, but, given the unequal development of the capitalist world system, Sri Lanka is a very backward part of that large world.

The view that Sri Lankan culture is an urban culture is based on the false premise that Sri Lanka is a modern nation. In my view, Sri Lanka is far from being a modern nation. In fact, Sri Lanka is a very primitive nation when compared with the modern developed nations of the world. We are in fact many centuries behind time. In my poem “Like the Fish Trapped”, a poem dedicated to my fellow countrymen, there are the following lines:

My history is elsewhere
And my
Self;
Or am I, just
Pre—history?
I keep my pretenses.
But to be true
Between Veddahs and me
There’s only small difference.

The Veddahs in Sri Lanka are like the aborigines in Australia, the most primitive section of our society. Symbolically, in relation to the
developed world, we remain in the position of the Veddahs. As I have repeatedly told you earlier this is not due to any fault of ours but is due to the way the capitalist system developed and more specifically due to the working of the colonial system controlled by Europe. Juridically, we are "a modern state", having equal status with the developed nations of the world. But the gap between this juridical fiction and the actual facts is as vast as the one between development and underdevelopment. The World Bank and International Monetary Fund policies have made sure we remain in that same position and even go backwards by the nature of this dual relationship on the one hand to the countries in the developing world and on the other hand to modern capitalism. Sri Lankan society remains in a state of anarchy. It has remained so for over 500 years now. The greater the development of capitalism in the world, the worse the internal situation of a country like Sri Lanka becomes. The social relationships in this country are rooted in this situation. The culture that grows from such social relationships naturally reflects this agonizing situation of the society.

ROBINSON: Isn't Colombo an urban center?

FERNANDO: Yes, let's take the example of Colombo. It's a center of petty trade and commerce in comparison to the great urban centers of the world. What is the industry that Colombo can boast of? One industry which employs a thousand or two thousand workers is considered a huge establishment here. Surely, a real large-scale industry is completely unknown in Sri Lanka. I'm reminded of a certain conversation during my school days just after the crushing of the 1971 insurrection. A certain member of the Colombo elite intelligentsia, a rather well-known person, posed a question to a group of students: Now that the rural guerrilla movement has failed, why not
an urban guerrilla movement? To this, one student retorted: Where do you have the urban area to base an urban guerrilla movement?

The assumption that we do have an infra-structure of urban life is based on the assumption that change in mass communication itself creates an urban culture. This is far from the truth. Yes, even the remotest part of the world cannot escape the effects of the revolution in mass communications, particularly since the Second World War. But it is not the means of communication that is central to the creation of a culture. More important is who communicates and what is communicated.

ROBINSON: Can you give some examples of what you mean?

FERNANDO: Let me give one example. One of the well-known Sinhala novelists Gunadasa Amarasekera— he was more popular in the 1970s than now— wrote a novel that was supposed to be a Sri Lankan version of D. H. Lawrence's *Lady Chatterley's Lover*. This novel was a colossal failure. Years later, Amarasekera expressed regrets about the book. The reason for his failure was the attempt to understand Lawrence's novel in the background of comparatively vastly different social relationships in Sri Lanka. The industrial revolution in Europe and in Britain in particular, which provided the social roots for reflection by the great intellect of D. H. Lawrence, simply did not exist in Sri Lanka.

ROBINSON: You've referred to the 1971 insurrection two or three times. What is your present attitude to that uprising?

FERNANDO: First of all, let me say I consider the uprising as legitimate. The major reason for it was the emergence of a generation of youth who saw through the fact that all the political parties of Sri Lanka at that time had exhausted themselves and had nothing to offer them by way of solution to their problems. Their most bitter
realization was that the two major labor parties had turned their backs on them by entering into a coalition government with a right-wing party. This generation of young people emerged from the poorest sections of Sri Lankan Sinhalese society. They had the advantage of not being brainwashed by British education as the upper classes were. They talked among themselves about a solution. The solution they proposed in an embryo form was the establishment of a worker's and peasants's government on a socialist basis following the model of the People's Republic of China. And they agreed on an uprising. The reason the uprising failed was the lack of experience on the part of the insurgents. After all, this was their first political experience of this nature. They had to learn the politics of an insurgency, mainly the reaction of the state, of the other classes. Anyway, by 1971 the ruling class in Sri Lanka had proved they could not rule. Everyone was beginning to realize that. At the same time, no other section had properly learned how to rule. That explains the uprising, its failure, and its influence for the future. The ruling class today continues to prove the same thing. The country has advanced from the crisis of the 1970s to the chaos of the 1980s. Not only has the ruling class failed to solve any one of the democratic tasks in this country but it has not even put forward a perspective within which the country could attain a level of development that could at least solve the more fundamental problems faced by the society.

ROBINSON: To change the subject, as a criminal lawyer you must be familiar with the prison system in Sri Lanka. Can you give us some idea about present prison conditions, punishment, rehabilitation, probation?

FERNANDO: Yes, of course. May I start by referring to our Bar Association Law Journal? J. P. Delgoda, a former Commissioner of
Prisons in Sri Lanka, made a speech that was recently published in the Journal. Let me answer your questions—and they are very general, too!—by giving you some of the statistics given by Delgoda. Between 1970 and 1983 there were about 9,000 prisoners convicted in Sri Lanka and there were about 66,000 unconvicted prisoners, that is, prisoners on remand. The average daily prison population is about 10,000—exactly, 4,194 convicted prisoners, 6,154 on remand. In other words, and I'll quote Delgoda: "In Sri Lanka all our prisons are overflowing with people who have not yet been found guilty". There is lack of accommodations available for remand prisoners. That is, as Delgoda says, the prisons can accommodate up to 1,300 prisoners on remand, but sometimes there are up to 8,000 remand prisoners. As Delgoda says, there are prisoners waiting longer for their appeals than for their sentences; if a prisoner had served his sentence, he might have gone home earlier.

ROBINSON: Is there any connection between this phenomenon and the economic status of prisoners?

FERNANDO: You must have heard the old expression "There's no justice for the poor". Many prisoners on remand for bailable offenses are unable to furnish bail. As Delgoda says, bail should not be beyond the reach of the accused. Many prisoners are too poor to retain counsel. They stay in jail.

ROBINSON: What are the present conditions in the jails in Sri Lanka?

FERNANDO: Delgoda deals with that too. Not the worst, though. Anyway, he invites his readers to come with him any day at 6 A. M. to visit a prison ward. You see, the prisoners are given chamber pots. Often, 150 to 200 people are put into a prison ward meant for 25 to 30 people. Let me quote again: "I will guarantee you that even if you stay about 10 to 15 yards away from the door, when one of these
wards is opened, the stench will make you lose your appetite for a week". That should help to make you understand what prison conditions are like here.

ROBINSON: Is there any movement for prison reform?

FERNANDO: Delgoda's speech reflects the desperation of the officials in charge of prisons in Sri Lanka. Yes, prison reform is often talked about, but nobody believes that it will take place. The average Sri Lankan thinks of a prison as a place closely resembling Apaya (Hell).

ROBINSON: Aside from the overcrowding...

FERNANDO: Please remember that the underdevelopment of a small so-called third world country and the poor prison conditions are very much related. When the state cuts down its expenditure on the welfare of its free citizens — health, education, food — it's not going to increase its expenditure on those who are in prisons. To put this in another way, that state does not give in even to those who are able to protest, such as the workers and the organized unions — the general strike of 1980 was crushed, you know, by treating all workers who participated in it as having vacated their posts and by the use of repression and thuggery — so the state will not care very much about those who cannot protest, those behind prison walls.

ROBINSON: I think I can guess what you're going to say about rehabilitation.

FERNANDO: Given the background I've just described for you — and not the worst! — what is the real chance for rehabilitation? People speak eloquently about rehabilitation, and probation, but except on very rare occasions hardly anything of importance has been done in those areas. We hear of this or that experiment, such as open prisons, but ultimately nothing worth mentioning has come out of it. We once had a story about a famous criminal's reformation through
rehabilitation. Sometime later we heard of this man being shot and killed by a policeman in some argument. That's the sort of way all attempts at reform usually end in this country.

ROBINSON: Are many intellectuals in Sri Lanka active on behalf of prison reform?

FERNANDO: Look, the crisis relating to the administration of justice in this country points once again to what I've been trying to describe to you—-the great division between the intelligentsia and the people of this country. The men who act as prison officials, judges, high ranking police officers and other public officers called upon to administer justice in one way or another are all educated gentlemen whose education, mainly in private schools, has conditioned them to a social, psychological and emotional ethos in which is embedded a deep aversion to the people. Could they care the least for the social consequences of a man's being sent to prison? So long as the composition of the Sri Lankan intelligentsia as a whole does not change, the grave problems of administering justice here will continue to be treated in the same light-minded manner with pseudo-serious language.

Of course, there are differences among individuals, and there are quite a lot of concerned persons, but these more concerned persons are the ones who are ultimately led to greater disillusionment because of the way the entire system functions. More than in any other aspects of society, individual initiative matters least in this particular sphere.

ROBINSON: What is "pseudo-serious language"?

FERNANDO: Just let me give one example. As you know, Sinhala and Tamil are official languages in the courts. Actually, in practice, English is still the court language. In the Court of Appeals and in the
Supreme Court, Sinhala and Tamil are hardly used at all. Not that you are prohibited from using Sinhala or Tamil, but the fact is these languages are hardly ever used in the these courts. The records of cases are published only in English. That in itself guarantees the use of English as the “unofficial official language” of the courts. There was an attempt to publish Sinhala and Tamil translations of court reports but somehow that was sabotaged. If the Court of Appeals and the Supreme Court delivered their judgments in Sinhala and Tamil, vast numbers of people would be able to read those judgments and be educated in the law. I have another good story for you. A certain gentleman, once President of the Bar Council of Sri Lanka, was approached by some young lawyers on this question of language in the courts. His cynical reply was: “If you use the mother tongue, your clients will understand what in fact you are saying. Do you think they will still retain us after they begin to understand what we in fact say?” You may think this type of thinking is very exceptional here. But quite a lot of people think that way, although they don’t express their ideas so openly.

ROBINSON: What about the use of language in the lower courts?
FERNANDO: Even in lower courts the language with which counsels address the court is still mostly English. In the Courts of First Instance—what you call the lower courts—the trials are usually conducted in Sinhala or Tamil, depending on the area in which the court is situated. So the record of a case is kept in the language in which the trial is conducted. In the Court of Appeals or in the Supreme Court the order relating to the appeal could be made in the same language. I admit that the judge may not be very much against this, but opposition will come from certain groups of lawyers themselves who have established themselves using the advantage of
English, which they have learned in their private elite schools. They safeguard this privilege because if the people's languages, Sinhala and Tamil, were used in courts, much more brilliant contributions to the law and the administration of justice would be made by persons who do not come from these schools. The argument that is often used in favor of retaining English in the Appellate Courts is that, otherwise, the Case Authorities of other nations could not be used in arguing cases before the local courts. This argument is false. Authorities from other nations are used all the time in other fields such as medicine, science, business. The ability to read many languages is one thing. Use of a certain language for official purposes is another. One can quote from one language while competently using one's own language for official purposes. But quoting from legal sources is only one aspect of dealing with a case. In my opinion, one of the most important aspects is to allow the common sense of the general public to bear on the matter. This cannot be done without allowing the public the opportunity to understand what is going on.